99TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
99-503

AMENDING THE WILD AND SCENIC RIVERS ACT, AND FOR OTHER PURPOSES

MARCH 20, 1986.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

---

Mr. UDALL, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H.R. 4350]

[Including the cost estimate of the Congressional Budget Office]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 4350) to amend the Wild and Scenic Rivers Act, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

The amendments are as follows:

Page 8, line 17, strike the words "as a wild river".

Page 10, line 1 through 5, strike all of paragraph (c).

Page 14, after line 21, insert the following new section:

SEC. 203. GREAT EGG HARBOR RIVER.

(a) STUDY.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1271-1287) is amended by adding the following new paragraph at the end thereof—

"(94) GREAT EGG HARBOR RIVER, NEW JERSEY.—The entire river.".

(b) COMPLETION DATE.—Section 5(b)(3) of such Act is amended by adding the following at the end thereof: "The study of the river named in paragraph (94) of subsection (a) shall be completed not later than 3 years after the date of the enactment of this sentence."

Page 16, line 4, strike the quotation mark and the last period.

Page 21, line 18, strike the quotation mark and the period and, insert the following:

71-006 O

READEX MICROPRINT best copy available

41.1/8:

(4) No permit or other authorization provided for under provision of any other federal law shall be conditioned on the existence of any agreement provided for in this section.

Page 21, line 24, change "14" to "14.".

Background

H.R. 4350 would amend the National Wild and Scenic Rivers Act by designating segments of the Cache la Poudre River, Colorado; Saline Bayou, Louisiana; Black Creek, Mississippi; North Fork Kern River, California and South Fork Kern River, California for inclusion in the wild and scenic rivers system. The bill also would provide for the study of segments of the Henry's Fork River, Idaho; the West Branch Farmington River, Connecticut and Massachusetts; and the Great Egg Harbor River, New Jersey for possible addition to the wild and scenic river system. In addition, a number of technical amendments are made to the National Wild and Scenic Rivers Act to clarify areas of interpretation and improve direction for the managing agencies.

The upper Cache la Poudre River was authorized for study for possible inclusion in the National Wild and Scenic River System in 1975 (P.L. 93-621).

The Cache la Poudre River originates in Colorado on the east slope of the Rocky Mountains in the alpine regions of Rocky Mountain National Park and flows through outstanding areas of the Park and Roosevelt National Forest until reaching the high plains areas in the vicinity of Fort Collins and Greely, Colorado, where it joins the South Platte River. The river is considered to have outstanding scenic and recreational values.

Most of the lands within the river corridor proposed for designation are publicly owned and administered primarily by the Forest Service and the National Park Service.

Seventy-five miles of river are proposed as a unit of the National Wild and Scenic River System, of which 31 miles would be designated wild, and 44 miles recreational. Savings provisions are included to clarify that existing water rights shall not be interfered with by such designation.

The lower Cache la Poudre River flows through the arid upper plains region of Colorado and provides a valuable riparian habitat for wildlife as well as an outstanding recreational resource for urban areas, primarily the City of Fort Collins.

The Secretary of Agriculture is directed to provide grants and technical assistance to the City of Fort Collins, Colorado, to carry out a national recreation area study of an 18½ mile segment of the Cache la Poudre River corridor in the urban growth boundaries of the City of Fort Collins and extending to the Weld-Larimer County line. The report would include a comprehensive evaluation of the public recreation opportunities and flood plain management options which are available with respect to the river corridor. It specifies the values to be considered in the plan, and the opportunities for cooperative management, land acquisition, and facilities. The Secretary would be directed to transmit the study report to Congress within 3 years. The cost of the study would be shared,

with the Federal funding portion 75 percent and the remainder being contributed by the City of Fort Collins.

Saline Bayou is located in central Louisiana and, for the most part, is within the boundary of the Kisatchie National Forest.

Saline Bayou is generally considered one of Louisiana's most scenic and unique streams. During the 1960's, as canoeing increased in popularity, the Forest Service designated and maintained the segment of the bayou between Cloud Crossing recreation area and State Highway 156 as a river float trip area. The bayou, with its placid moving flow, meandering route, murky water and moss-draped cypress trees, is very picturesque. The upper section is characterized by towering pines and bottomland hardwoods, while the lower area is dotted with bald cypress. There is a diverse wildlife population in the area. Deer and raccoon are common. Beaver are found along the lower segments of the bayou, and bobcat and grey fox are frequently seen. Turkey, cormorant, several species of woodpecker and wood duck, and the blue heron are common along the entire length of the bayou.

A 19 mile segment of Saline Bayou would be designated as an addition to the Wild and Scenic River System to be administered by the Secretary of Agriculture.

Black Creek is located within the DeSoto National Forest in the State of Mississippi. The Forest Service study found the entire 41 miles of the authorized study segment qualified for wild and scenic designation but only recommended 21 miles for designation because of conflicts with private land on the remaining 20 miles of the creek.

Black Creek is generally of low elevation and slow moving with a meandering channel surrounded by low lying bottomlands. The stream corridor is characterized by dense vegetation including cypress, yellow poplar, magnolia, various gum trees and other species typical of botomland hardwood forests. Wildlife includes a wide variety of waterfowl, deer, turkey, black bear, American alligator and red-cockaded woodpecker. The alligator and red-cockaded woodpecker are on the threatened or endangered species list.

Twenty-one miles of Black Creek from Pairley Bridge Landing to Moody's Landing would be designated as a Scenic River to be administered by the Secretary of Agriculture.

The North Folk Kern River is located in the southern portion of the Sierra Nevada Mountains. It contains the longest stretch of free-flowing river mileage in the Sierras, and is the only prospective Wild and Scenic River in the Southern California area. The North Fork Kern was recommended for inclusion in the Wild and Scenic River System by the Forest Service after it was determined to possess outstandingly remarkable visual, geological, cultural, historical, vegetation, wildlife, recreation and fisheries value.

The North Folk Kern River flows almost due south and has a 10,000 foot drop in elevation from the headwaters on the slopes of Mount Whitney to Isabella Reservoir, 83 river miles away. The changes in altitude are accompanied by a wide diversity of vegetation zones ideal for a wide range of wildlife. The river corridor provides habitat for wolverine, California condor, bald eagle, peregrine falcon, and golden trout. The North Fork Kern River is a glaciated canyon and may be the longest such valley in the nation. The

upper river is free-flowing for over 61 miles, and has numerous waterfalls and natural lakes. The Big and Little Kern Lakes, formed by natural landslides, have been used by scientists to study the natural stages in the life of a lake. The upper 47 miles of the North Fork Kern lie within Sequoia National Park and the Golden Trout Wilderness Area, and are currently managed as a wilderness resource. The lower river, from Johnsondale Bridge downstream to the Tulare-Kern County line, is about 17 miles and is heavily used at the present time as a recreational river. This portion of the river has easy access and is only about three and one-half hours by auto from the populous Los Angeles basin. The area has almost 250,000 visitors anually.

About seventy-eight miles would b designated for inclusion within the National Wild and Scenic River System.

The South Fork Kern River is totally free-flowing and descends through steep gorges with large granite outcroppings and domes interspersed with open meadows. The 72.5 mile segment designated in H.R. 4350 flows through three wildernesses—Golden Trout, South Sierra and Domeland. Numerous waterfalls and rapids are located in the gorges. The river alternately passes through from perpendicular-walled gorges to flat pinyon-juniper-sagebrush meadows. The area has dramatic diversity in vegetation and riparian habitat. Several rare species and a premium trout fishery exist in the upper reaches of th river. Also, numerous historic and prehistoric sites are within the corridor. Thirteen miles of the Pacific Crest Trail parallels the South Fork Kern River.

The Henry's Fork River (tributary to the Snake River) is located in eastern Idaho primarily within the Targhee National Forest and is near the boundary of Yellowstone National Park.

The Henry's Fork River is considered by a number of national sport organizations to be among the most outstanding trout fishing rivers in the nation and supports intensive fishing pressure. Harriman State Park located on the river, reported about 10,000 fishing days during the summer of 1985.

The river and associated riparian habitat support extensive wildlife populations including the rare trumpeter swan, sandbill cranes, eagles, osprey, and a wide variety of other migratory waterfowl.

The Federal Energy Regulatory Commission has received applications for six permits for small hydroelectric power projects and, it is understood, has issued four preliminary permits. Considerable concern has been expressed by a number of local and national sport and environmental groups that small hydroelectric development will eliminate a large percentage of the fisheries habitat and damage the riparian habitat currently used by waterfowl with resultant loss in those populations.

In 1970 the Secretaries of Interior and Agriculture identified 45 miles of the river from Big Springs to Warm River as a potential study river. During the recent Forest planning process the river was assessed for eligibility for study and 45 miles were found to be eligible.

The segment (about 31 miles) of the Henry's Fork River from Island Park Dam downstream to the confluence with Warm River and that segment (about 11 miles) from Big Springs downstream to

Island Park Reservoir, would be studied for possible inclusion within the Wild and Scenic Rivers System.

The Farmington River flows from Massachusetts through Connecticut and has two principal branches. The East Branch along with one tributary, the Nepaug, have been dammed for water supply. Only the West Branch remains essentially free-flowing. This branch, 18 miles in the study area, has been identified in the Nationwide Rivers Inventory as possessing outstanding qualities and is the portion being considered for a Wild and Scenic River Study. Of the 18 mile segment, about 10 miles are in the State of Massachusetts and about 8 miles are in Connecticut.

This diverse river is recognized for its significant natural and recreational aspects. The West Branch Farmington River supports Connecticut's largest trout fishery and is part of the federal Atlantic Salmon Restoration Program. It provides international Class IV whitewater canoeing and kayaking.

The river corridor includes natural areas and agricultural lands. The river flows through two state parks, five state forests and has remote "near wilderness" canoeing areas.

The study segments identified are from the New Hartford-Canton town line to the base of the West Branch Reservoir (about 8 miles) in Connecticut and from Thorp Brook to Hayden Pond (about 10 miles) in Massachusetts.

A committee of 17 members appointed by the Secretary of the Interior would be established. The Committee would advise the Secretary as to the conduct of the study and concerning management alternatives should the river be included in the Wild and Scenic River System.

The Great Egg Harbor River, which rises in Berlin Township in Camden County and flows southerly nearly 60 miles into Great Egg Harbor, is one of New Jersey's greatest natural resources. The river has met all the criteria for inclusion in the National Wild and Scenic Rivers Inventory, and would be studied for its entire length. Its location in the New Jersey Pinelands National Reserve gives the river additional status, both nationally and internationally.

The river is a slow moving stream lined with dense vegetation and is considered one of the foremost canoe rivers in the mid-Atlantic area.

A number of minor but troubling technical deficiences resulting in some difficulties in implementing the Wild and Scenic Rivers Act have been the subject of debate by various agencies and organizations for several years. Amendments to several sections of the Wild and Scenic Rivers Act are included. These amendments are of a technical and clarifying nature that would provide the administering agencies better guidance for implementing the Act.

PURPOSE

The purpose of H.R. 4350[1] is to amend the Wild and Scenic Rivers Act and for other purposes. H.R. 4350 would amend the Na-

[1] H.R. 4350 was introduced March 6, 1986 by Representative Bruce F. Vento for himself, and Mr. Lagomarsino, Mr. Huckaby, Mr. Pashayan, Mr. Lott, Mr. Stallings, Mr. Brown of Colorado,

Continued

tional Wild and Scenic Rivers Act by designating segments of the Cache la Poudre River, Colorado; Saline Bayou, Louisiana; Black Creek, Mississippi; North Fork Kern River, California and South Fork Kern River, California for inclusion in the wild and scenic rivers system. The bill also would provide for the study of segments of the Henry's Fork River, Idaho; the West Branch Farmington River, Connecticut and Massachusetts; and the Great Egg Harbor River, New Jersey for possible addition to the wild and scenic river system. In addition, a number of technical amendments are made to the National Wild and Scenic Rivers Act to clarify areas of interpretation and improve direction for the managing agencies.

Legislative History and Committee Recommendations

The Subcommittee on National Parks and Recreation held hearings on the various bills that comprise H.R. 4350 as follows: Cache La Poudre (H.R. 3547) on September 19, 1985 and October 31, 1985; Saline Bayou (H.R. 2230) on September 19, 1985; Black Creek (H.R. 4091) on March 6, 1986; North Fork and South Fork Kern and generic amendments to the Wild and Scenic Rivers Act (H.R. 3934) on February 27, 1986; Henry's Fork (H.R. 2569) on October 22, 1985; and West Branch Farmington (H.R. 2191) on October 22, 1985.

The bill was recommended to the Committee on Interior and Insular Affaris, with amendments on March 13, 1986. The Committee approved H.R. 1391, as amended, by a voice vote on March 19, 1986.

Section-by-Section Analysis

Section 101(a) designates segments of the Cache la Poudre River, Colorado as an addition to the National Wild and Scenic River System to be administered respectively, by the Secretary of Agriculture and the Secretary of the Interior. Subsection (b) establishes savings provisions to protect the exercise of existing decreed water rights.

In enacting this section, the Committee has relied upon the joint recommendations of conservation and water supply interests. The premises upon which those recommendations were based are as follows:

Recognizing the superior recreational and aesthetic values of the River, conservationists and water-supply interests supported the designation of the entire stretch of the mainstem from the mountain headwaters to just below the town of Poudre Park, as well as most of the South fork, a total of 31 miles of "wild" river and 44 miles of recreational river. Thus construction of the proposed Elkhorn, Idylewilde and Indian Meadows dam and reservoir sites on

---

Mrs. Johnson, Mr. Gejdenson, Mr. Udall, and Mr. Seiberling. Other bills introduced which are included in substance in H.R. 4350 are: H.R. 2191 introduced April 23, 1985 by Representative Nancy Johnson for herself, and Mr. Rowland of Connecticut, and Mr. McKinney. H.R. 2230 introduced April 25, 1985 by Representative Jerry Huckaby. H.R. 2569 introduced May 21, 1985 by Representative Richard H. Stallings. H.R. 3547 introduced October 10, 1985 by Representative Hank Brown for himself, and Mr. Strang, Mr. Schaefer, Mr. Kramer, Mrs. Schroeder, and Mr. Wirth. H.R. 3934 introduced December 12, 1985 by Representative Charles Pashayan for himself, and Mr. Thomas of California. H.R. 4091 introduced by Representative Trent Lott. H.R. 4293 introduced March 4, 1986 by Representative William J. Hughes for himself, and Mr. Howard, Mr. Saxton and Mr. Smith of New Jersey.

the mainstem would be precluded. The entire South Fork of the Cache la Poudre is designated, but for the small proposed Rockwell Reservoir site which lies between two segments designated as wild river.

Recognizing the feasibility of storing water below the designated segments, conservationists and water-supply interests supported termination of the designation at a point just below Poudre Park and above the Grey Mountain dam and reservoir site. Water suppliers have decided to focus their interest in future water and energy needs outside of the designatd segments. The Northern Colorado Water Conservancy District currently holds water rights and a FERC preliminary permit for a newly-proposed project in connection with the Grey Mountain dam and reservoir site, the off-channel Cache la Poudre Forebay site and the off-channel Glade Reservoir site. These sites are excluded from designation so that water and energy development utilizing these sites will not be prohibited in the future as a result of the Wild and Scenic Rivers Act designation, provided all permitting requirements are satisfied and provided thorough consideration is given to reasonable measures for minimizing any impacts on the designated segments of the Wild and Scenic River, as is discussed further in the following paragraphs. The cities of Greeley and Fort Collins have owned property and water rights for many years in connection with the Rockwell site, in anticipation of the possible construction of a reservoir on that site. Any project proposed in the future for the Rockwell site would be subject to the provisions of the Wild and Scenic Rivers Act, including 16 U.S.C. sections 1278 and 1281, and all pertinent regulations.

Subsection (b) contains three broad concepts: (1) to recognize and protect the existing water supply management regime for the River; (2) to assure that the Wild and Scenic designation will not be used to prohibit the permitting of a project utilizing the Grey Mountain site entirely downstream from all designated segments, but also provide the basis for requiring reasonable measures, through the permitting process, to minimize impacts on the Wild and Scenic river segments; and (3) to clarify and define the reservation of water established by the designation of the Cache la Poudre as wild and scenic, in relation to Colorado and federal law.

Subsection (b) recognizes that the inclusion of the designated portions of the Cache la Poudre River into the Wild and Scenic Rivers system will not interfere with the exercise of valid existing decreed water rights to water which has heretofore been stored or diverted by means of the present capacity of storage, conveyance, or diversion structures which exist on the date of enactment of this legislation, or the operation and maintenance of such existing structures. While Section 2 provides that the Wild and Scenic River designation will not be used to prohibit development of proposed Grey Mountain dam, reservoir and hydropower facilities, the section also provides that project sponsors and federal, state and local agencies with permitting authority over the project are required to consider reasonable measures in the planning of the project, for minimizing any impacts of the project on the designated Wild and Scenic River segments. These measures can be included as conditions of the permits by the permitting agencies who have authority to require such

conditions. It is recognized that, subject to reasonable mitigation measures, construction activities may have some impact and that project facilities may be visible from certain portions of the Wild and Scenic River corridor. See 36 CFR Part 296.5 (a), (b), 296.6. However, no implicit approval or disapproval of any specific construction activity is implied by the foregoing sentence.

The terminal point of Wild and Scenic River designation below Poudre Park was chosen so that the maximum water level of a reservoir at the Grey Mountain site will not exceed 5640 feet in elevation. This water level ceiling protects from inundation the segments designated under this Act and provides as additional assurance to the residents of Poudre Park that Wild and Scenic River designation will protect against encroachment of reservoir levels through Poudre Park.

In order to provide designation of the Poudre River to a point below Poudre Park, and at the same provide for the development of a reservoir at the Grey Mountain site, section 2 recognizes that it may be necessary to relocate existing Highway 14 into the Wild and Scenic River corridor to provide access to Poudre Park and its residents around the project facilities. Road relocation also includes the consideration of reasonable measures by permitting authorities and the project sponsor to minimize any impacts on the designated segments. It is noted that the potential relocation of the road is permissible only under these circumstances because the road currently exists and is needed for access by residents of Poudre Park. The acceptance of the potential need for road relocation is not intended as precedent to allow road access to any other private inholdings currently withouit access bordering a wild and scenic river.

The language provides that water and energy development located entirely downstream of all designated segments and carried out in accordance with this savings provision is not incompatible with designation of segments of the Cache la Poudre River under the Wild and Scenic Rivers Act, given the unique circumstances of siting of the proposed projects in this instance. This provides the requested assurance to water supply interests that water and energy development will not be prohibited because of designation under the Act and meets the concern of conservation interests that the designation of the river must be taken into account in project planning.

The language also recognizes that inclusion of segments of the Cache la Poudre River in the Wild and Scenic River system creates a federal reserved water right in those segments and that this water right shall be adjudicated in the Colorado court system, and shall have a priority date as of the date of passage of this section.

Subsection (c) requires the Forest Service to provide grants and technical assistance to the City of Fort Collins, Colorado to study an 18.5 mile segment of the Cache la Poudre Corridor from Fort Collins to the Weld-Larimer county line as a possible national recreation area. Not more than 75% will be paid by the Federal government. The study will be transmitted by the Secretary of Agriculture to the Congress within three years of the date of enactment of the Act. The Committee intends that any recommendations made by local government as a result of and included within

this study shall be forwarded to the Congress without modification by any Federal agency or employee.

Section 102 designates a segment of the Saline Bayou, Louisiana for inclusion within the National Wild and Scenic River System to be administered by the Secretary of Agriculture. The Committee notes that over 50% of the land within the proposed wild and scenic river corridor is owned by the United States and as such the Forest Service is prohibited from acquiring any further land in the corridor in fee title. The Committee strongly encourages the Forest Service to carefully negotiate the additional easement acquisitions, that may be required, with the affected landowners and to avoid the use of condemnation authority if at all possible. Such authority should be used only when necessary to protect the wild and scenic river values from degradation due to adverse development or altered land use.

The Committee also intends that the Forest Service consult closely with state and local agencies, and the public during preparation of the plan required by section 3(b) of the Wild and Scenic Rivers Act.

Section 103 designates a segment of the Black Creek, Mississippi as an addition to the National Wild and Scenic River System, to be administered by the Secretary of Agriculture as a scenic river.

The Committee rejects the finding of the Forest Service in its draft study report that ". . . the designated corridor be a minimum of 200 feet on each side of the creek and seldom exceed this distance."

It is the intent of this Committee that the Forest Service shall develop a boundary for National Forest System lands which is approximately ¼ mile in width on each side of Black Creek in fulfilling the boundary establishment requirement of section 3(b) of the Wild and Scenic Rivers Act, as amended. This boundary may take into consideration topographic features such as oxbow lakes and landform. While the Committee does not agree that the narrower corridor of 200 feet on each side of the river is generally consistent with the intent of the Wild and Scenic Rivers Act, the study report recommendation for this narrower corridor on non-Federal lands only along Black Creek is acceptable. The Committee also notes the existence of the Forest Service hiking trail that closely parallels Black Creek and urges careful planning on the part of the Forest Service to integrate the complimentary recreation values of the trail with the scenic river.

Section 104 designates a segment of the North Fork Kern River, California as an addition to the National Wild and Scenic River System to be administered, repectively, by the Secretary of Agriculture and the Secretary of the Interior.

The Committee notes that a small water diversion structure currently exists in the lower section of the designated segment of the river. The current operation of the diversion has not been found to be reason to exclude this section of the river from inclusion in the National Wild and Scenic River System. However, the Secretary of Agriculture should be fully aware of the provisions of section 7 of the National Wild and Scenic River Act related to any possible future proposals to alter operations of the existing diversion. The Committee also notes the existing county road which parallels the

lower section of the river. The Committee intends that maintenance of this road should be permitted to the extent that public safety is protected but that every effort must be made to assure that the values of the river are not diminished by such actions.

Section 105 designates the South Fork of the Kern River, California as an addition to the National Wild and Scenic River System, to be administered by the Secretary of Agriculture. The Committee notes that no wild and scenic river study has been completed for the South Fork of the Kern River. However, the entire segment is within the boundary of the Sequoia National Forest and the draft forest plan recommends the entire segment as included in this section be classified as either a wild or recreation river.

The Committee further notes possible future construction of a small hydroelectric project on the South Fork Kern River just outside of the wilderness boundary. It is the Committee's intent that the river segment in this section conform to the wilderness boundary so as to preclude any overlap between the wild and scenic river segment designated and the portion of the river that might be inundated because of construction under authority of FERC Project No. 4805 or of the competing application FERC Project No. 6441.

Section 201 provides for the study of two segments of the Henry's Fork River, Idaho for possible inclusion in the National Wild and Scenic River System.

The Committee is aware that studies are underway to determine if the addition of hydropower to the structure of the Island Park Dam is economically and engineeringly feasible. In order to permit a fair evaluation of alternative uses of resources, the Committee Amendment was so drafted as to exclude the Island Park Dam and Reservoir from the Wild and Scenic River study. This action will permit the study of hydropower at Island Park Dam to continue concurrently with the wild and scenic study. The Committee intends that the Secretary of Agriculture shall include, in his report, information and recommendations concerning the effects of such possible hydropower additions on the downstream reach of Henry's Fork.

Section 202 provides for the study of two segments of the West Branch, Farmington River, Connecticut and Massachusetts, for possible inclusion in the National Wild and Scenic River System. This section also provides for the Secretary of the Interior to appoint a 17 member committee to advise the Secretary on the conduct of the study and concerning river amendment alternatives should the river be included in the national system.

The Committee heard testimony that expressed concern for the possible need of the greater Hartford area to divert water from that portion of the Framington River included in the authorized study during times of severe drought. While the Committee believes the information provided during hearings casts doubt upon such claims it is in order to direct the Secretary's attention to this possible problem and to encourage a liberal interpretations of the Wild and Scenic River Act if drought conditions reach such an emergency status that such a diversion is temporarily needed. The Committee notes that Connecticut has an ongoing comprehensive study to develop a master plan for future management of potable water resources and urges the Secretary to coordinate closely with

the State during the wild and scenic river study and to provide information on the water supply needs as part of the study.

Section 203 provides for the study of the Great Egg Harbor River, New Jersey, for possible inclusion in the National Wild and Scenic River System.

Section 301. This section redesignates the subparagraph numbers of certain rivers for internal consistency; clarifies the date from which the Secretary makes boundaries and classifications; clarifies that boundaries include an average of not more than 320 acres of land per mile measured from the ordinary high water mark on both sides of a river; and deletes the requirements for a development plan within one year. It also provides that notice of availability of boundaries and classifications and subsequent boundary amendments will be published in the Federal Register, and provides that maps of such boundaries and amendments will be conveniently located in agency offices for public inspection. Finally, it provides for comprehensive management plans to be prepared for rivers designated after January 1, 1986 which will protect river values. For rivers designated prior to that date, the existing boundaries, classifications and plans will be reviewed for consistency with the amendment within 10 years through normal agency planning processes.

The Committee intends that publishing notice of the availability of boundaries and classifications and making maps and descriptions available to the public will provide the same level of public notice as was previously provided by publication of such information in the Federal Register.

The new provision for comprehensive plans is not intended to negate any existing river management plans, but that normal agency planning processes for adjacent lands will address river protection in conformity with the requirements for comprehensive plans.

Section 302 provides that the boundaries of study rivers shall generally comprise the area one-quarter mile from the ordinary high water mark of each side of the river. Designated rivers shall also be considered to have the same boundaries (unless modified by legislative action) until formal boundaries are established pursuant to section 3(b). The Committee intends this provision to clarify the question of the extent of the boundaries for study rivers and newly designated rivers for purposes of applying the protections of section 7(b) of the Wild and Scenic River Act and section 522(e)(1) of the Surface Mining Control and Reclamation Act of 1977. However, it is not the Committee's intention that the general description of boundaries for study rivers for these limited purposes will in any way limit the reasonable scope of a river study mandated by section 5 of the Act.

Section 303 clarifies the Wild and Scenic River Act by redesignating the paragraph numbering of section 3. It also extends the time for submission of studies for four rivers until January 1, 1987, and authorizes appropriations for studies.

Section 304 makes clerical corrections. Section 6(a) of the Act is amended to permit the acquisition of state owned lands within wild and scenic river boundaries by exchange. In addition, whole tract acquisition is permitted when land is located both inside and out-

side the boundaries of a Wild and Scenic River. The Committee expects this authority to be used primarily in those situations where whole tract acquisition is financially advantageous to the United States instead of paying such owners severence fees. Section 6(b) is amended to clarify the scope of federal ownership restrictions to refer to lands in fee ownership outside the ordinary high mark on both sides of the designated rivers.

Section 305 amends section 7 to clarify subsection (a) as to the date of designation of a river for purposes of determining whether activities above or below designated portions of a river will unreasonably diminish the river values. An analogous amendment is made to subsection (b) pertaining to study rivers. Additionally, the time periods during which the protections of section 7(b) apply to study rivers have been clarified to run from the date of study designation to three years for Congressional consideration. The Committee intends that the clarification of the time periods of section 7(b) protections will eliminate any question that river protections do not lapse because of any delays in the submission of reports to Congress.

Section 306 amends section 8 of the Act to clarify that the authorities of section 6(d) and section 14A of the Act are not limited by the withdrawal of lands from entry and disposition under the public lands laws.

Section 307 is a clerical correction in the Act.

Section 308 amends section 11 of the Act to expand the cooperative authorities of federal agencies with state, local and private entities in the planning, protection and management of river resources. Additionally, the Secretaries of Agricluture and the Interior and encouraged to utilize the various statutes allowing for volunter assistance. The Committee notes that similar provisions were enacted in section 207(g) of the 1983 Amendments to the National Trails System Act (P.L. 98–11).

The Committee also notes that Section 308 is not intended to directly impact non-Federal lands within or outside of a federally administered area of a component of the wild and scenic river system or other rivers to which this section applies. It is the Committee's intent to allow only Federal technical assistance under this section, to states, local governments or private entities that request such assistance for the purpose of improving the management of river resources. In this regard, Section 308 should not be construed as imposing any new Federal management authority on non-Federal lands as defined within this section.

Section 309 amends section 12(c) to reference the Environmental Protection Agency as the principal federal agency in charge of abating water pollution.

Section 310 adds a provision pertaining to the donation of lands and interests in lands to private nonprofit organizations. The Committee intends that this provision will facilitate the donation of conservation easements to organizations such as private land trusts and other conservation groups. The new provision validates, as a matter of federal law, all conveyances of partial interests in land notwithstanding whether such interests are recognized under state law. For example, the Committee understands that easements in gross are not otherwise transferable under some state laws. Like-

wise, such conveyancs would be deemed to further a Federal conservation policy and yield a significant public benefit for purposes of section 6 of Public Law 96-541. The Committee notes that this provision is similar to that in section 207(i) of the 1983 Amendments to the National Trails System Act (P.L. 98-111).

Section 311 amends section 16(c) of the Act which defines a scenic easement. The amendment would allow the appropriate Secretary to acquire fee title to a tract of land allowing the landowner to retain in perpetuity all regular existing uses of the land. Such an estate in land acquired by the United States would be deemed a scenic easement and would not constitute fee ownership for the calculation of fee title lands under section 6(b). The Committee understands that this amendment will permit the utilization of reserved interest deeds which should more clearly delineate the interests in land acquired by the government and such interests reserved by the landowner thereby reducing ambiguities for all parties concerned.

Inflationary Impact Statement and Budget Act Compliance

Taken in the context of the overall budget, the funding involved is insignificant and the Committee believes no inflationary impact will result from the enactment of this legislation. The analysis of the Congressional Budget Office, which the Committee adopts as its own, follows:

Congressional Budget Office Cost Estimate

U.S. Congress,
Congressional Budget Office,
Washington, DC, March 20, 1986.

Hon. Morris K. Udall,
Chairman, Committee on Interior and Insular affairs,
House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed H.R. 4350, a bill to amend the Wild and Scenic Rivers Act and for other purposes, as ordered reported by the House Committee on Interior and Insular Affairs, March 19, 1986. We estimate that enactment of the bill would result in costs to the federal government of approximately $2.3 million over the five years beginning in 1987.

The bill would designate segments of five rivers as components of the National Wild and Scenic Rivers System and would authorize studies of three others for possible inclusion in the system. The bill would also authorize grants and technical assistance for study of a possible national recreation area in the proposed Cache La Poudre wild and scenic river area and would establish a seventeen-member Farmington River Study Committee in connection with the proposed study of that river. H.R. 4350 authorizes the appropriation of such sums as may be necessary for the various activities required by the bill, beginning in fiscal year 1987.

Based on information from the Forest Service and the National Park Service, we estimate that development, administration, and easement costs related to the river segments designated by the bill

will total approximately $1.9 million over the five years beginning in 1987. CBO estimates federal costs of approximately $150,000 over three years, 75 percent of total costs, for grants and technical assistance to Fort Collins, Colorado, for a study on the potential designation of a segment of the Cache La Poudre River corridor as a national recreation area.

For the three studies of rivers and the Farmington River Study Committee authorized by the bill, CBO projects costs of approximately $120,000 in each of the fiscal years 1987 and 1988, declining to $70,000 in 1989 as the study of Henry's Fork, Idaho, is completed.

Enactment of the bill would not affect the budgets of state or local governments.

If you wish further detail on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

RUDOLPH G. PENNER, *Director.*

OVERSIGHT STATEMENT

The Committee intends to carefully monitor the implementation of this legislation to assure compliance with the intent of the Act. No recommendations were submitted to the Committee pursuant to Rule X, clause 2(b)(2).

DEPARTMENT REPORTS

Departmental reports have been received with respect to the Cache La Poudre (dated March 17, 1986), the Saline Bayou (dated January 17, 1986) and the North Fork of the Kern (dated March 19, 1986). The texts of those reports are reprinted below. Such additional reports as the committee may receive will be included in the files of the committee on this legislation.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, March 17, 1986.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As you requested, here is our report on H.R. 3547, a bill "To amend the Wild and Scenic Rivers Act to designate certain segments of the Cache la Poudre River and the South Fork of the Cache la Poudre River in Colorado as a component of the national Wild and Scenic River System."

The Department of Agriculture recommends that H.R. 3547 be enacted if amended as indicated.

H.R. 3547 would designate approximately 75 miles of the Cache la Poudre River within the Roosevelt National Forest as a National Wild and Scenic River. This includes the entire main stem from its origin at Poudre Lake to Poudre Park and the entire South Fork except for approximately 2 miles at the potential Rockwell Dam site. Thirty-one miles would be classified as "wild" and 44 miles as "recreational." The bill would reemphasize provisions of the Wild

and Scenic Rivers Act—stating that the river designation would not interfere with the exercise of existing decreed water rights that have been developed at the time of enactment and would specify that designation would not preclude downstream developments. H.R. 3547 in section 3 would provide for a study of an 18.5 mile corridor along the Cache la Poudre River through the urban growth boundaries of the City of Fort Collins to the Weld-Larimer County line for possible designation as a National Recreation Area. The Department of Agriculture through the Chief of the Forest Service would be directed to provide grants for up to 75 percent of the cost of the study and technical assistance to the City of Fort Collins to carry out the study. The Secretary of Agriculture would be directed to transmit a comprehensive report containing the results of the study to Congress.

In April 1985, the Cache la Poudre River Study Report was transmitted to Congress. This report covered 83 miles of the river above Ft. Collins. None of the 18.5 miles within and adjacent to Ft. Collins was included in that study. The report recommended designation of 62 miles of the river. The landscape is representative of the features commonly seen along the Colorado Front Range. The combination of the landform, vegetation, water, and other physical and natural features contributes to the attractiveness of the Poudre River. Our recommendation included 41 of the 62 miles of the main stem from the source at Poudre Lake to the Roosevelt National Forest boundary and the entire 21-mile length of the South Fork with the exception of approximately 2 miles near the Rockwell Dam site. This recommendation is very similar to the designation in H.R. 3547 except for one segment of the main stem. The study report recommended that a 15-mile segment from Rustic, Colorado, upstream to just below the tunnel rest area not be designated because it is almost entirely in private ownership. We recommend that this segment be deleted from designation in H.R. 3547.

The special provisions of Section 2 are apparently included to be more specific as to how the provisions of the Wild and Scenic Rivers Act are to apply to the Cache la Poudre River. The provision related to compatibility with possible water resources developments downstream from Poudre Park apparently is intended as a congressional finding of compatibility rather than a case-by-case administrative determination as called for in Section 7 of the Wild and Scenic Rivers Act. We have no objection to Congress making this determination, but it is not clear as presently written. We would be happy to work with the Committee to clarify this provision.

The study called for in H.R. 3547 would require the Forest Service to offer technical assistance and provide a grant of up to 75 percent of the study costs to the city of Fort Collins for a study through the city. The Secretary of Agriculture would also be responsible for transmission of the report to Congress. The purpose of the study is to determine possible suitability of the area as a National Recreation Area. We believe that study of this segment of the Cache la Poudre for its recreation potential and value to the community is worthwhile; however, we believe it is a State or local responsibility rather than a Federal responsibility. The Department of Agriculture would be willing to provide technical assist-

ance through appropriate agencies, including the Forest Service, to the State or the City of Fort Collins if either were to undertake such a study. If Section 3 is retained in the bill, it should be revised to delete the provision for Federal grants, leaving the primary responsibility for the study with State or local government.

In conclusion, we support the designation of the Cache la Poudre as a Wild and Scenic River as described in H.R. 3547 with the exception of the segment between the tunnel rest area and Rustic, Colorado. We do not want to discourage the effort by Fort Collins or the State to undertake a study of the river resource through their community; however, we do not believe that Federal funding of such a study is appropriate given the primary local benefits and other competing demands for Federal funds.

It is estimated that the cost of implementing this legislation, if amended as we suggest, would be approximately $500,000 for development, $63,000 for easements and rights-of way, and $722,000 for operation and maintenance over the next 5 years. The estimated cost of the National Recreation Area study within the city of Fort Collins would be an additional $150,000.

The Office of Management and Budget advises there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

RICHARD E. LYING, *Secretary.*

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, January 17, 1986.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Department of Agriculture would like to offer its views on H.R. 2230, a bill "to amend the Wild and Scenic Rivers Act to designate a segment of the Saline Bayou in Louisiana for potential addition to the National Wild and Scenic Rivers System."

The Department recommends that the bill be enacted.

H.R. 2230 would designate 19 miles of Saline Bayou from Saline Lake upstream to the Kisatchie National Forest boundary for study for possible inclusion in the National Wild and Scenic River System. The study and report are to be completed within two years.

Saline Bayou is recognized as one of Louisiana's most scenic and unique streams. Its headwaters are formed from the union of Baker's Creek, Williams Creek and Saline Creek just south of Arcadia in Bienville Parish. From its origin the bayou winds southward for approximately 40 miles to the northern end of the Saline Lake. The recreation uses in the river corridor are primarily canoeing, fishing and hunting.

The 19 miles that are proposed for study are within the Kisatchie National Forest boundary. The 33 miles of the Saline from its headwaters to 7 miles above Saline Lake are included in the Louisi-

ana State Scenic and Natural Streams System. The State system prohibits channelization, clearing and snagging, and channel realigment on designated rivers and is administered by the Louisiana Department of Wildlife and Fisheries. Twelve miles of the 33 mile State designation overlaps the study segment proposed in H.R. 2230.

In the Kisatchie National Forest Draft Forest Plan and Environmental Impact Statement issued in July 1984 the Forest Service recommended that the 19 miles of the Saline Bayou within the forest boundary be studied for possible inclusion in the National Wild and Scenic Rivers System. This recommendation was based on their preliminary determination of the rivers eligibility because of its scienic quality and recreation potential. The public comments on this proposal were generally supportive of this study. There were some public concerns raised about what effect designation would have on private land. The Final Forest Plan and Environmental impact Statement released on September 23, 1985 recommends the Saline Bayou for Wild and Scenic River study.

We support H.R. 2230 which would continue the study that we have already begun through our forest planning. It would direct completion of the process to determine the appropriate classification and suitability of Saline Bayou for Wild and Scenic River designation in accordance with the Act.

We estimate it will cost $20,000 to complete the study and report.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JOHN R. BLOCK, *Secretary.*

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, March 19, 1986.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs,
U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As you requested, here is our report on H.R. 3934, a bill "To amend the Wild and Scenic Rivers Act, and for other purposes."

The Department of Agriculture recommends, as it affects this Department's responsibilities, that H.R. 3934 be enacted if amended. Specifically, we support Title I, perfecting amendments to the Wild and Scenic Rivers Act, and Title II, designation of the North Fork Kern River, California, as a component of the National Wild and Scenic Rivers System. We recommend that Title VI, an Ozone Base Study for the Southern San Joaquin Valley, be deleted. We defer to the Department of the Interior on Title III, National Park Wilderness; Title IV, additions to the Sequoia National Forest from lands within Sequoia and Kings Canyon National Park; Title V, Sequoia National Park Wilderness permit fee system; and Title VII, designation of an unnamed peak in Sequoia and Kings Canyon National Park as Mount Peters.

TITLE I

Title I of H.R. 3934 includes a number of perfecting amendments to the Wild and Scenic Rivers Act of 1968. During the 98th Congress, the Administration transmitted a proposal to Congress of similar perfecting amendments. We would like to provide some background to that Administration proposal and the subsequent changes to the amendments that have occurred as a direct result of the discussions during the previous Congress. The substance of those discussions generally is reflected in the amendments in H.R. 3934.

Almost 7 years ago, a staff group from the Departments of Agriculture and the Interior started working on possible amendments to the Wild and Scenic Rivers Act. They addressed legal and management issues and opportunities that have arisen since the Act was orginally passed in 1968. The recommendations of that group formed the basis for the Administration's proposal. During the 98th Congress, concerns were raised about some of the proposed amendments. We met with interested parties and congressional staff to discuss amendments that were controversial and made some changes to reflect their concerns while still trying to meet the needs of the river managing agencies.

The amendments in Title I of H.R. 3934 are an improvement in our view since they deal with most of the problems that caused the earlier objections. These new amendments as contained in H.R. 3934 would help in the management of designated Wild and Scenic Rivers in a number of ways. Some of these are:

—Clarifying the definition of the area encompassed by the boundries of a designated river.

—Eliminating the need to publish detailed river boundries in the Federal Register by requiring only publication of notice of availability of the legal descriptions.

—Providing for comprehensive planning within 3 years of designation rather than development planning.

—Permitting more effective land acquisition through purchase and exchange.

—Clarifying the definition of public ownership to be fee title land for purposes of section 6(b) of the Act.

We strongly support these revised amendments as being in the best interest of the National Wild and Scenic Rivers System.

TITLE II

Title II would designate approximately 61 miles of the North Fork Kern River from its headwaters in Sequoia National Park downstream to 5600 feet above the Johnsondale Bridge within the Sequoia National Forest as a component of the National Wild and Scenic Rivers System. This designation is identical to the Administration proposal which was transmitted to Congress last April. The natural and scenic qualities of the North Fork Kern River are irreplaceable resources. The river, along with its surrounding lands, also provides an exemplary wilderness experience, fishing and hunting, rock climbing, camping, rafting, and some of the best technical whitewater conditions in North America. We support the

designation of the North Fork Kern River as a component of the National Wild and Scenic Rivers System.

TITLE VI

Title VI calls for development of an air quality model for the southern San Joaquin Valley to provide a foundation for ozone emission strategies that will benefit the forest ecosystems of Sequoia and Kings Canyon National Parks and Sequoia National Forest.

The Forest Service has a history of air pollution research dating back to the early 1960's. This early research dealt primarily with the effects of ozone and other gaseous pollutants on forest ecosystems in southern California. Results of this research have led to an understanding of the mechanisms and impacts of some gaseous pollutants on tree growth and mortality. In 1982, the Forest Service expanded its air pollution research program from southern California to the southern and central Sierras—including Sequoia and Kings Canyon National Parks and Sequoia National Forest—as part of the National Acid Precipitation Assessment Program.

We continue to have an active air pollution research program in California, the results of which are shared with other Federal, State, and local agencies. Our air pollution research is centered on the effects of atmospheric pollutants and their effect on forest ecosystems. We have done limited research on modeling of air quality as it applies to forest management; however, the Environmental Protection Agency, with adequate statutory authority, has the primary responsibility for modeling. We believe the additional statutory authority contained in Title VI, Ozone Base Study, is not needed.

In conclusion, we recommend that you enact the perfecting amendments to the Wild and Scenic Rivers Act and designate the North Fork Kern as a National Wild and Scenic River. We recommend that the Ozone Base Study be deleted, and we defer to the Department of the Interior on the remaining portions of H.R. 3934.

It is estimated that the cost of implementing Titles I and II of H.R. 3934 would total approximately $150,000 over the next 5 years.

The Office of Management and Budget advises there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

RICHARD E. LYNG, *Secretary.*

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

* * * * * * *

SEC. 3. (a) The following rivers and the land adjacent thereto are hereby designatd as components of the national wild and scenic rivers system:

(1) * * *

* * * * * * *

[(51)] *(52)* AU SABLE, MICHIGAN.—The segment of the main stem from the project boundary of the Mio Pond project downstream to the project boundary at Alcona Pond project as generally depicted on a map entitled "Au Sable River" which is on file and available for public inspection in the Office of the Chief, Forest Service, United States Department of Agriculture; to be administered by the Secretary of Agriculture.

[(52)] *(53)* TUOLUMNE, CALIFORNIA.—The main river from its sources on Mount Dana and Mount Lyell in Yosemite National Park to Don Pedro Reservoir consisting of approximately 83 miles as generally depicted on the proposed boundary map entitled "Alternative A" contained in the Draft Tuolumne Wild and Scenic River Study and Environmental Impact Statement published by the United States Department of the Interior and Department of Agriculture in May 1979; to be administered by the Secretary of the Interior and the Secretary of Agriculture. After consultation with State and local governments and the interested public and within two years from the date of enactment of this paragraph, the Secretary shall take such action as is required under susection (b) of this section. Nothing in this Act shall preclude the licensing, development, operation, or maintenance of water resources facilities on those portions of the North Fork, Middle Fork or South Fork of the Tuolumne or Clavey Rivers that are outside the boundary of the wild and scenic river area as designated in this section. Nothing in this section is intended or shall be construed to affect any rights, obligations, privileges, or benefits granted under any prior authority of law including chapter 4 of the Act of December 19, 1913, commonly referred to as the Raker Act (38 Stat. 242) and including any agreement or administrative ruling entered into or made effective before the enactment of this paragraph. For fiscal years commencing after September 30, 1985, there are authorized to be appropriated such sums as may be necessary to implement the provisions of this subsection.

[(52)] *(54)* ILLINOIS, OREGON.—The segment from the boundary of the Siskiyou National Forest downstream to its confluence with the Rogue River as generally depicited on a map entitled "Illinois River Study" and is also part of report entitled "A proposal: Illinois Wild and Scenic River." to be administered by the Secretary of Agriculture. After consultation with State and local governments and the interested public, the Secretary shall take such action as is required under subsection (b) of this section within one year from the date of enactment of this paragraph. For the purposes of this Act with respect to the river designated by this paragraph, effective October 1, 1984, there are authorized to be appropriated such

sums as necessary for the acquisition of lands or interests in lands, and such sums as necessary for development.

[(53)] *(55)* OWYHEE, OREGON.—The South Fork from the Idaho-Oregon State line downstream to Three Forks; the Owyhee River from Three Forks downstream to China Gulch; and the Owyhee River downstream from Crooked Creek to the Owyhee Reservoir as generally depicted on a map entitled "Owyhee, Oregon" dated April 1984; all three segments to be administered as a wild river by the Secretary of the Interior. After consultation with State and local governments and the interested public, the Secretary shall take such appropriate action as is required under subsection (b) of this section within one year from the date of enactment of this paragraph. For the purposes of this Act with respect to the river designated by this paragraph, effective October 1, 1984, there are authorized to be appropriated such sums as necessary for the acquisition of lands or interests and such sums as necessary for development.

(56) CACHE LA POUDRE, COLORADO.—The following segments as generally depicted on the proposed boundary maps numbered fs-56 and dated March 1986, published by the United States Department of Agriculture, each to be administered by the Secretary of Agriculture; except that those portions of the segments so designated which are within the boundary of Rocky Mountain National Park shall continue to be administered by the Secretary of the Interior:

(A) Beginning at Poudre Lake downstream to the confluence of Joe Wright Creek, as a wild river. This segment to be designated the "Peter H. Dominick Wild River Area."

(B) Downstream from the confluence of Joe Wright Creek to a point where the river intersects the Easterly North-South line of the W ½ SW ¼ of Section 1, Township 8 North, Range 71 West of the 6th P.M., as a recreational river.

(C) South Fork of the Cache la Poudre River from its source to the Comanche Peak Wilderness Boundary, approximately four miles, as a wild river.

(D) Beginning at the Comanche Peak Wilderness Boundary to a point on the South Fork of the Cache la Poudre River in Section 1, Township 7 North, Range 73 West of the 6th P.M., at elevation 8050 mean sea level, as a recreational river.

(E) South Fork of the Cache la Poudre River from its intersection with the easterly section line of Section 30, Township 8 North, Range 72 West of the 6th P.M., to confluence of the main stem of the Cache la Poudre River, as a wild river.

With respect to the portions of the river segments designated by this paragraph which are within the boundaries of Rocky Mountain National Park, the requirements of subsection (b) of this section shall be fulfilled by the Secretary of the Interior through appropriate revisions to the general management plan for the park, and the boundaries, classification, and development plans for such portions need not be published in the Federal Register. Such revisions to the general management plan for the park shall assure that no developments or use of park lands shall be undertaken that is inconsistent with the designation of such river segments as a wild river. For the purposes of the segments designated by this paragraph, there are authorized to be appropriated for fiscal years commencing after Sep-

tember 30, 1986, such sums as may be necessary for the acquisition of lands and interests in lands and for development.

(57) SALINE BAYOU, LOUISIANA.—The segment from Saline Lake upstream to the Kisatchie National Forest, as generally depicted on the Proposed Boundary Map, numbered fs-57, and dated March, 1986; to be administered by the Secretary of Agriculture. For the purposes of the segment designated by this paragraph, there are authorized to be appropriated for fiscal years commencing after September 30, 1986, such sums as may be necessary for the acquisition of lands and interests in lands and for development.

(58) BLACK CREEK, MISSISSIPPI.—The segment from Farley Bridge Landing upstream to Moody's Landing as generally depicted on a map entitled 'Black Creek Wild and Scenic River', numbered fs-58 and dated March 1986, to be administered by the Secretary of Agriculture as a scenic river area under section 2(b)(2). For the purposes of the segment designated by this paragraph, there are authorized to be appropriated for fiscal years commencing after September 30, 1986, such sums as may be necessary for the acquisition of lands and interests in lands and for development.

(59) NORTH FORK KERN RIVER, CALIFORNIA.—The segment of the main stem from the Tulare-Kern county line to its headwaters within Sequoia National Park, as generally depicted on a map entitled "Proposed North Fork Kern River", numbered fs-59 and dated March, 1986; to be administered by the Secretary of Agriculture; except that those portions of the river within the boundaries of the Sequoia National Park shall be administered by the Secretary of the Interior. With respect to the portions of the river segments designated by this paragraph which are within the boundaries of Sequoia National Park, the requirements of subsection (b) of this section shall be fulfilled by the Secretary of the Interior through appropriate revisions to the general management plan for the park, and the boundaries, classification, and development plans for such portions need not be published in the Federal Register. Such revisions to the general management plan for the park shall assure that no developments or use of park lands shall be undertaken that is inconsistent with the designation of such river segments. For the purposes of the segment designated by this paragraph, there are authorized to be appropriated for fiscal years commencing after September 30, 1986, such sums as may be necessary for the acquisition of lands and interests in lands and for development.

(60) SOUTH FORK KERN RIVER, CALIFORNIA.—The segment from its headwaters in the Inyo National Forest to the southern boundary of Domelands Wilderness in the Sequoia National Forest, as generally depicted on the Proposed Boundary Map, numbered fs-60, and dated March, 1986; to be administered by the Secretary of Agriculture. For the purposes of the segment designated by this paragraph, there are authorized to be appropriated for fiscal years commencing after September 30, 1986, such sums as may be necessary for the acquisition of lands and interests in lands and for development.

(b) The agency charged with the administration of each component of the national wild and scenic rivers system designated by subsection (a) of this section shall, within one year from the date of [this Act] *designation of such component under subsection (a)* (except where a different date is provided in subsection (a)), estab-

lish detailed boundaries therefor [(which boundaries shall include an average of not more than three hundred and twenty acres per mile on both sides of the river)] *(which boundaries shall include an average of not more than 320 acres of land per mile measured from the ordinary high water mark on both sides of the river)*; determine which of the classes outlined in section 2, subsection (b), of this Act best fit the river or its various segments [; and prepare a plan for necessary developments in connection with its administration in accordance with such classification. Said boundaries, classification, and development plans]. *Notice of the availability of the boundaries and classification, and of subsequent boundary amendments* shall be published in the Federal Register and shalll not become effective until ninety days after they have been forwarded to the President of the Senate and the Speaker of the House of Representatives.

(c) Maps of all boundaries and descriptions of the classifications of designated river segments, and subsequent amendments to such boundaries, shall be available for public inspection in the offices of the administering agency in the District of Columbia and in locatios convenient to the designated river.

(d)(1) For rivers designated on or after January 1, 1986, the Federal agency charged with the administration of each component of the National Wild and Scenic Rivers System shall prepare a comprehensive management plan for such river segment to provide for the protection of the river values. The plan shall address resource protection, development of lands and facilities, user capacities, and other management practices necessary or desirable to achieve the purposes of this Act. The plan shall be coordinated with and may be in corporated into resource management planning for affected adjacent Federal lands. The plan shall be prepared, after consultation with State and local governments and the interested public within 3 full fiscal years after the date of designation. Notice of the completion and availability of such plans shall be published in the Federal Register.

(2) For rivers designated before January 1, 1986, all boundaries, classifications, and plans shall be reviewed for conformity within the requirements of this subsection within 10 years through regular agency planning processes.

SEC. 4. (a) * * *

* * * * * * *

(d) The boundaries of any river proposed in section 5(a) of his Act for potential addition to the National Wild and Scenic Rivers System shall generally comprise that area measured within one-quarter mile from the ordinary high water mark on each side of the river. In the case of any designated river, prior to publication of boundaries pursuant to section 3(b) of this Act, the boundaries also shall comprise the same area. This subsection shall not be construed to limit the possible scope of the study report to address areas which may lie more than one-quarter mile from the ordinary high water mark on each side of the river.

SEC. 5. (a) The following rivers are hereby designated for potential addition to the national wild and scenic rivers system:

(1) * * *

* * * * * * *

[(90)] *(91)* The North Umpqua, Oregon; The segment from the Soda Springs Powerhouse to the confluence of Rock Creek. The provisions of section 7(a) shall apply to tributary Steamboat Creek in the same manner as such provisions apply to the rivers referred to in such section 7(a). The Secretary of Agriculture shall, in the Umpqua National Forest plan, provide that management practices for Steamboat Creek and its immediate environment conserve, protect, and enhance the anadromous fish habitat and population.

(92) HENRY'S FORK, IDAHO.—The segment of approximately 11 miles from Big Springs downstream to Island Park Reservoir, and the segment of approximately 31 miles from Island Park Dam downstream to the confluence with Warm River.

(93) FARMINGTON, WEST BRANCH, CONNECTICUT AND MASSACHUSETTS.—The segment from the intersection of the New Hartford-Canton, Connecticut, town line upstream to the base of the West Branch Reservoir in Hartland, Connecticut; and the segment from the confluence with Thorp Brook in Sandisfield, Massachusetts, to Hayden Pond in Otis, Massachusetts.

(94) GREAT EGG HARBOR RIVER, NEW JERSEY.—The entire river.

(b)(1) The studies of rivers named in subparagraphs (28) through (55) of subsection (a) of this section shall be completed and reports thereon submitted by not later than October 2, 1979: *Provided,* That with respect to the rivers named in subparagraphs (33), (50), and (51), the Secretaries shall not commence any studies until (i) the State legislature has acted with respect to such rivers or (ii) one year from the date of enactment of this Act, whichever is earlier. *Studies of the river named in paragraphs (38), (55), (83), and (87) shall be completed and the report transmitted to the Congress not later than January 1, 1987.*

* * * * * * *

(3) The studies of the rivers named in paragraphs (59) through (76) of subsection (a) shall be completed and reports submitted thereon not later than five full fiscal years after the date of the enactment of this paragraph. The study of rivers named in paragraphs (62) through (64) of subsection (a) shall be completed and the report thereon submitted by not later than April 1981. The study of the river named in paragraph (90) of subsection (a) shall be completed not later than three years after the date of the enactment of this sentence. *The study of the river named in paragraph (92) of subsection (a) shall be completed not later than 2 years after the date of the enactment of this sentence. The study of the river named in paragraph (94) of subsection (a) shall be completed not later than 3 years after the date of the enactment of this sentence.*

[(4) There are authorized to be appropriated for the purpose of conducting the studies of the rivers named in subparagraphs (28) through (56) such sums as may be necessary, but not more than $4,060,000. There are authorized to be appropriated for the purpose of conducting the studies of the rivers named in subparagraphs (59) through (76) such sums as may be necessary. There are authorized

to be appropriated for the purpose of conducting the study of the river named in paragraph (90) such sums as may be necessary.]

(4) For the purposes of conducting the studies of rivers named in subsection (a), there are authorized to be appropriated such sums as necessary.

* * * * * * *

(7) The study of the river named in paragraph (93) of subsection (a) shall be completed and the report submitted thereon not later than the end of the third fiscal year beginning after the enactment of this paragraph. Such report shall include a discussion of management alternatives for the river if it were to be included in the national wild and scenic river system.

SEC. 6. (a) *(1)* The Secretary of the Interior and the Secretary of Agriculture are each authorized to acquire lands and interests in land within the authorized boundaries of any component of the national wild and scenic rivers system designated in section 3 of this Act, or hereafter designated for inclusion in the system by Act of Congress, which is administered by him, but he shall not acquire fee title to an average of more than 100 acres per mile on both sides of the river. Lands owned by a State may be acquired only by [donation, and lands] *donation or by exchange in accordance with the provisions of section 206 of the Federal Land Policy and Management Act of 1976.* Lands owned by an Indian tribe or a political subdivision of a State may not be acquired without the consent of the appropriate governing body thereof as long as the Indian tribe or political subdivision is following a plan for management and protection of the lands which the Secretary finds protects the land and assures its use for purposes consistent with this Act. Money appropriated for Federal purposes from the land and water conservation fund shall, without prejudice to the use of appropriations from other sources, be available to Federal departments and agencies for the acquisition of property for the purposes of this Act.

(2) When a tract of land lies partially within and partially outside the boundaries of a component of the National Wild and Scenic Rivers System, the appropriate Secretary may, with the consent of the landowners for the portion outside the boundaries, acquire the entire tract. The land or interest therein so acquired outside the boundaries shall not be counted against the average 100-acre per mile fee title limitation of subsection (a)(1). If not needed for outdoor recreation, administrative, or other purposes in furtherance of this Act, the lands or interests therein outside such boundaries, may be disposed of, consistent with existing authorities of law, by sale, lease, or exchange.

(b) If 50 per centum or more of the entire acreage *outside the ordinary high water mark on both sides of the river* within a federally administered wild, scenic or recreational river area is owned *in fee title* by the United States, by the State or States within which it lies, or by political subdivisions of those States, neither Secretary shall acquire fee title to any lands by condemnation under authority of this Act. Nothing contained in this section, however, shall preclude the use of condemnation when necessary to clear title or to acquire scenic easements or such other easements as are reasonably necessary to give the public access to the river and to permit

its members to traverse the length of the area or of selected segments thereof.

* * * * * * *

(e) The head of any Federal department or agency having administrative jurisdiction over any lands or interests in land within the authorized boundaries of any federally administered component of the national wild and scenic rivers system designated in section 3 of this Act or hereafter designated for inclusion in the system by Act of Congress [in] *is* authorized to transfer to the appropriate Secretary jurisdiction over such lands for administration in accordance with the provisions of this Act. Lands acquired by or transferred to the Secretary of Argiculture for the purposes of this Act within or adjacent to a national forest shall upon such acquisition or transfer become national forest lands.

* * * * * * *

SEC. 7. (a) The Federal Power Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act (41 Stat. 1063), as amended (16 U.S.C. 791a et seq.), on or directly affecting any river which is designated in section 3 of this Act as a component of the national wild and scenic rivers system or which is hereafter designated for inclusion in that system, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration. Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, development below or above a wild, scenic or recreational river area or on any stream tributary thereto which will not invade the area or unreasonably diminish the scenic, recreational, and fish and wildlife values present in the area on the date of [approval of this Act.] *designation of a river as a component of the National Wild and Scenic Rivers System.* No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration, or request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without advising the Secretary of the Interior or the Secretary of Agriculture, as the case may be, in writing of its intention so to do at least sixty days in advance, and without specifically reporting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purposes of this Act and would affect the component and the values to be protected by it under this Act. Any license heretofore or hereafter issued by the Federal Power Commission affecting the New River of North Carolina shall continue to be effective only for that portion of the river which is not included in the National Wild and Scenic Rivers System pursuant to section 2 of this Act and no

project or undertaking so licensed shall be permitted to invade, inundate or otherwise adversely affect such river segment.

(b) The Federal Power Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act, as amended, on or directly affecting any river which is listed in section 5, subsection (a), of this Act, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river might be designated, as determined by the Secretary responsible for its study or approval—

(i) during the ten-year period following enactment of this Act or for a three complete fiscal year period following any Act of Congress designating any river for potential addition to the national wild and scenic rivers system, whichever is later, unless, prior to the expiration of the relevant period, the Secretary of the Interior and, where national forest lands are involved, the Secretary of Agriculture, on the basis of study, determine that such river should not be included in the national wild and scenic rivers system and notify the Committees on Interior and Insular Affairs of the United States Congress, in writing, including a copy of the study upon which the determination was made, at least one hundred and eighty days while Congress is in session prior to publishing notice to that effect in the Federal Register: *Provided,* That if any Act designating any river or rivers for potential addition to the national wild and scenic rivers system provides a period for the study or studies which exceeds such three complete fiscal year period the period provided for in such Act shall be substituted for the three complete fiscal year period in the provisions of this clause (i); and

(ii) during such interim period from the date a report is due and the time a report is actually submitted to the Congress; and

[(ii)**]** *(iii)* during such additional period thereafter as, in the case of any river the report for which is submitted to the President and the Congress for inclusion in the national wild and scenic rivers system, is necessary for congressional consideration thereof or, in the case of any river recommended to the Secretary of the Interior under section 2(a)(ii) of this Act, is necessary for the secretary's consideration thereof, which additional period, however, shall not exceed three years in the first case and one year in the second.

Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above a potential wild, scenic or recreational river area or on any stream tributary thereto which will not invade the area or diminish the scenic, recreational, and fish and wildlife values present in the potential wild, scenic or recreational river area on the date of **[**approval of this Act.**]** *designation of a river for study as provided for in section 5 of this Act.* No department or agency of the United States shall, during the periods hereinbefore specified, recommend authorization of any water resources project on any such river or request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without advising the

Secretary of the Interior and, where national forest lands are involved, the Secretary of Agriculture in writing of its intention so to do at least sixty days in advance of doing so and without specifically reporting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purposes of this Act and would affect the component and the values to be protected by it under this Act.

* * * * * * *

SEC. 8. (a) All public lands within the authorized boundaries of any component of the national wild and scenic rivers system which is designated in section 3 of this Act or which is hereafter designated for inclusion in that system are hereby withdrawn from entry, sale, or other disposition under the public land laws of the United States. *This subsection shall not be construed to limit the authorities granted in section 6(d) or section 14A of this Act.*

* * * * * * *

SEC. 9. (a) * * *

(b) The minerals in any Federal lands which constitute the bed or bank or are situated within one-quarter mile of the bank of any river which is listed in section 5, subsection (a) of this Act are hereby withdrawn from all forms of appropriation under the mining laws during the periods specified in section 7, subsection (b) of this Act. Nothing contained in this subsection shall be construed to forbid prospecting or the issuance [or] *of* leases, licenses, and permits under the mineral leasing laws subject to such conditions as the Secretary of the Interior and, in the case of national forest lands, the Secretary of Agriculture find appropriate to safeguard the area in the event it is subsequently included in the system. Notwithstanding the foregoing provisions of this subsection or any other provision of this Act, all public lands which constitute the bed or bank, or are within an area extending two miles from the bank of the river channel on both sides of the river segments referred to in paragraphs (77) through (88) of section 5(a), are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto, during the periods specified in section 7(b) of this Act.

* * * * * * *

SEC. 11. (a) The Secretary of the Interior shall encourage and assist the States to consider, in formulating and carrying out their comprehensive statewide outdoor recreation plans and proposals for financing assistance for State and local projects submitted pursuant to the Land and Water Conservation Fund Act of 1965 (78 State and opportunities for establishing State and local wild, scenic and recreational river areas. [He shall also, in accordance with the authority contained in the Act of May 28, 1963 (77 Stat. 49), provide technical assistance and advice to, and cooperate with, States, political subdivisions, and private interests, including nonprofit organizations, with respect to establishing such wild, scenic and recreational river areas.]

[(b) The Secretaries of Agriculture and of Health, Education, and Welfare shall likewise, in accordance with the authority vested in them, assist, advise, and cooperate with State and local agencies and private interests with respect to establishing such wild, scenic and recreational river areas.]

(b)(1) The Secretary of the Interior, the Secretary of Agriculture, or the head of any other Federal agency, shall assist, advise and cooperate with States or their political subdivisions, landowners, private organizations, or individuals to plan, protect, and manage river resources. Such assistance, advice, and cooperation may be through written agreements or otherwise. This authority applies within or outside a federally administered area and applies to rivers which are components of the Wild and Scenic River System and to other rivers. Any agreement under this subsection may include provisions for limited financial or other assistance to encourage participation in the acquisition, protection, and management of river resources.

(2) Wherever appropriate in furtherance of this Act, the Secretary of Agriculture and the Secretary of the Interior are authorized and encouraged to utilize the following:

(A) For activities on federally owned land, the Volunteers in the Parks Act of 1969 (16 U.S.C. 18g-j) and the Volunteers in the Forest Act of 1972 (16 U.S.C. 558a-558d).

(B) For activies on all other lands, section 6 of the Land and Water Conservation Fund Act of 1965 (relating to the development of statewide comprehensive outdoor recreation plans).

(3) For purposes of this subsection, the appropriate Secretary or the head of any Federal agency may utilize and make available Federal facilities, equipment, tools and technical assistance to volunteers and volunteer organizations, subject to such limitations and restrictions as the appropriate Secretary or the head of any Federal agency deems necessary or desirable.

(4) No permit or other authorization provided for under provision of any other federal law shall be conditioned on the existence of any agreement provided for in this section.

SEC. 12. (a) * * *

* * * * * * *

(c) The head of any agency administering a component of the national wild and scenic rivers system shall cooperate with the *Administrator, Environmental Protection Agency* [Secretary of the Interior] and with the appropriate State water pollution control agencies for the purpose of eliminating or diminishing the pollution of waters of the river.

* * * * * * *

SEC. 14. *(a)* The claim and allowance of the value of an easement as a charitable contribution under section 170 of title 26, United States Code, or as a gift under section 2522 of said title shall constitute an agreement by the donor on behalf of himself, his heirs, and assigns that, if the terms of the instrument creating the easement are violated, the donee or the United States may acquire the servient estate of its fair market value as of the time the easement was donated minus the value of the easement claimed and allowed as a charitable contribution or gift.

(b) For the conservation purposes of preserving or enhancing the values of components of the National Wild and Scenic Rivers System, and environs thereof as determined by the appropriate Secretary, landowners are authorized to donate or otherwise convey qualified real property interests to qualified organizations consistent with section 170(h)(3) of the Internal Revenue Code of 1954. Such interest may include, but shall not be limited to, rights-of-way, open space, scenic, or conservation easements, without regard to any limitation on the nature of the estate or interest otherwise transferable within the jurisdiction where the land is located. The conveyance of any such interest in land in accordance with this subsection shall be deemed to further a Federal conservation and policy and yield a significant public benefit for purposes of section 6 of Public Law 96-541.

* * * * * * *

SEC. 16. As used in this Act, the term—

(a) * * *

* * * * * * *

(c) "Scenic easement" means the right to control the use of land (including the air space above such land) within the authorized boundaries of a component of the wild and scenic rivers system, for the purpose of protecting the natural qualities of a designated wild, scenic or recreational river area, but such control shall not affect, without the owner's consent, any regular use exercised prior to the acquisition of the easement. *For any designated wild and scenic river, the appropriate Secretary shall treat the acquisition of fee title with the reservation of regular existing uses to the owner as a scenic easement for purposes of this Act. Such an acquisition shall not constitute fee title ownership for purposes of section 6(b).*

* * * * * * *

○